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Did You Know

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profession and the collection of data and evidence for the use of grievance committees in disbarment proceedings."

Mr. Roberts, secretary of the Conference, has ventured the prophecy that whereas in 1934 there were over two hundred members of the Junior Bar Conference, by 1944 "more than ten thousand men and women lawyers under thirty-six years of age will be the backbone of the American Bar Association and of civic liberty in the United States."

DID YOU KNOW

By GERALD E. WELSH, *Associate Editor of Dicta*

THAT in Colorado motions for directed verdicts by all parties at the close of the evidence in a jury trial constitute a submission of the case and the determination of the issues of fact therein to the court; and this is so even though one of the parties requests submission of the issues of fact to the jury. The doctrine is subject, however, to the qualification that "the submission of special interrogatories rests in the sound discretion of the trial court."

In a number of cases prior to *Parker vs. Plympton,* 85 Colo. 87, 273 P. 1030, the Supreme Court of Colorado held that requests by both parties for a directed verdict constituted a waiver of their right to go to a jury and were equivalent to a stipulation that the facts might be found by the court. However, the cited case was the first one to raise the question of the application of the rule where one of the parties made his motion subject to a reservation of right to have the issues of fact submitted to the jury, in the event his motion should be overruled.

The effect of motions for a directed verdict by both parties was set forth in *Parker vs. Plympton,* supra, as follows:

> "The motions of both parties were equivalent to a stipulation that the evidence was undisputed, or at least that it was so clear and convincing that reasonable men could draw only one inference from it, so that it thereby became a matter of law for the court."

The court rejected the contention that there was no stipulation in the given case because of the reservation attached to the motion, on the grounds that it does not permit reservations to its rules without its consent, and said further:

"The rule is a privilege. It was optional with the parties to invoke it, but having done so, they did it at their peril, plaintiff and defendant alike, and they must take it as it stands, unless the parties mutually agree to waive its effect, with the sanction of the court."

The court then cited as an instance of avoidance of the rule by consent the case of *McLagan vs. Granato,* 80 Colo. 412, 252 P. 348, which held that where each side moved for a directed verdict and the motions were denied and the case then went to the jury *without objection,* neither party had ground to complain.

In holding in the Plympton case that the defendant Parker under the circumstances was not entitled to a submission of the issues of fact to the jury, the court nevertheless adopted the decision of *London Guarantee and Accident Co. vs. Officer,* 78 Colo. 441, 445, 242 P. 989, 991, that "the submission of special interrogatories rests in the sound discretion of the trial court."

It was further held that it was not error to refuse defendant Parker the right to withdraw his motion for an instructed verdict—leave to do so having been asked before a ruling on the motion and because of the indicated proposal of the trial judge to treat the case as one in which the jury was waived. In this connection the court said:

"Whether or not permission to withdraw a motion may be said to rest generally in the sound discretion of the court, it cannot be done as a matter of right when it works an injury to the opposite party, or disrupts procedure, or where it amounts to an imposition on the court to grant it."

(Contributions are solicited which deal with points or doctrines of law, with particular emphasis on Colorado law, that are not commonly known, or are unusual, or are of informative value to the Bar. Address "DICTA"—"DID YOU KNOW".)